

b2cc: R.O. Kreinheder
F.H. Zimmerman
J. Volk
R.W. Brown

GOLD BOND BUILDING PRODUCTS
DIVISION OF NATIONAL GYPSUM COMPANY
BUFFALO, NEW YORK 14202



ALBERT M. FAY
VICE PRESIDENT - MARKETING

June 27, 1974

Mr. Robert Mereness
Executive Director
Asbestos Information Association/
North America
1660 L Street N.W.
Washington, DC 20036

Re: Clarence Borel vs.
Fiberboard Paper Products
Corporation

Dear Bob:

Please note the attached report from the Bureau of National Affairs, which indicates that the warning statement required by OSHA is not considered adequate warning to the user.

This statement should be reviewed with the Department of Labor; as promptly as possible, to determine their position in view of the OSHA required warning label.

Sincerely,

AHF:les
encl.

cc: John H. March

CEH : 00277

consumers may well present more serious chronic than acute hazards. "I believe these are prime candidates for information and education programs intended to heighten consumer awareness of the hazards and vigorous action by the Commission to encourage voluntary action by industry to modify these products so as to eliminate the hazard," the CPSC vice chairman contended. "As an alternative, these particular cases could perhaps be regulated by appropriate agencies as environmental hazards."

Discussing import regulations, Kushner told the attendees that estimates have been made that as many as 50 percent of the individual items subject to CPSC jurisdiction may be imports. Thus it is reasonable, he said, that the commission's enforcement and compliance programs should direct as much attention to imported products and importers as to assuring compliance on the part of domestic manufacturers of the same products.

David Masselli, of the Washington, D.C.-based Health Research Group, cited what he called failings in the safety agency's National Electronic Injury Surveillance System. Two of the system's major drawbacks, he asserted, are that it is not cause-specific, that is, it tells only that a product was related to an injury, and that the products at the top of the commission's hazard index are not necessarily products that are the most unreasonably hazardous. The products at the top of the hazard index, Masselli noted, generally are products with the widest exposure and those which are most likely to be involved in activities with dangerous aspects, such as bicycling.

He claimed that there may be products farther down on the hazard index which present more unreasonable risks, and which should be considered for CPSC action above those near the top.

Integration of Acts

Warren W. Eginton, partner in the law firm of Cummings & Lockwood, Stamford, Conn., said that defense attorneys generally favor seeing the laws other than CPSCA that are administered by the commission, particularly the Flammable Fabrics and Hazardous Substances Acts, more integrated in the agency's regulations.

He said there is concern among his clients about the provisions of the different commission-administered Acts. Defense attorneys tend to watch these other laws carefully, Eginton claimed, because their clients are plagued with misinformation about their applicability.

CPSC Chairman Richard O. Simpson, in his banquet address, urged industry, when submitting data in a commission inquiry or fact-finding activity, to provide specific, rather than general information.

Citing the agency's recent hearing into possible hazards associated with television sets, he stated that the commission was seeking specific information from TV manufacturers, but received general information from the industry's trade association.

He warned parties communicating with the safety agency not to claim they've never had a problem with a particular product, especially when the commission has good data to the contrary. "Rather," Simpson advised, "tell us what problems you've had. If they've been minimal, tell us so; if they've been quality control problems, tell us that; if you've got some design dif-

ficulties, tell us that. If you believe your data is bad, tell us that and then give us your data."

The CPSC chairman also urged industry to stand up for its legal rights. He suggested that it use the due process provisions built into the law, and not be afraid to ask for advisory opinions, either legal or technical.

General Policy

CPSC REFUSES TO ACCEPT CONSENT AGREEMENT WITH CARPET EXPORTER

The Consumer Product Safety Commission decided that it would not be in the public interest to allow the export of carpets and rugs which do not meet the standard under the Flammable Fabrics Act, and, at its executive session June 13, rejected a consent agreement the agency's bureau of compliance negotiated with Mercury Mills of Georgia, Inc.

In rejecting the agreement, the commission stated that it believes that a consent order such as this would be acceptable if the provision allowing export of subject carpets and rugs was eliminated.

The bureau was instructed to inform the exporter of its decision and, if it is not able to negotiate a satisfactory consent agreement in an "expeditious manner," to recommend to the commission any further action it deems appropriate.

In another unanimous decision, the commissioners denied a request from Ronson Corporation, Woodbridge, N.J., for an extension of time to comply with a child protection packaging regulation.

On February 7, Ronson asked for an extension of the effective date of the poison prevention packaging requirement applicable to lighter fluid, and an exemption for one size container from the provisions of the Poison Prevention Packaging Act.



Injury Suits

"MAY BE HARMFUL" IS NOT ENOUGH TO WARN USER OF ASBESTOS' LETHAL PROPENSITIES

A label on packages of asbestos informing the user that the product "may be hazardous" is not sufficient to warn even those who know that "it is bad for you" of the danger of a fatal illness caused by asbestosis or other cancers, the U.S. Court of Appeals for the Fifth Circuit ruled May 13 (*Clarence Dorel v. Fiberboard Paper Products Corporation, et al.*, No. 72-1492).

The suit was brought by an insulation worker against manufacturers of insulation materials containing asbestos for injuries caused by the alleged breach of duty to warn of dangers involved in handling asbestos. The manufacturers opposed the allegations, claiming that at one time labels were put on the asbestos packages warning that inhalation of the asbestos dust may be harmful, and that if dust is created, the worker should "avoid breathing the dust."

It should be noted, the court said, that the mild suggestion that inhalation of asbestos in excessive quan-